

The complaint

Mrs S complains that Brent Shrine Credit Union Limited trading as My Community Bank (MCB) have irresponsibly lent to her.

What happened

Mrs S was approved for a £7,000 personal loan in February 2024 by MCB. Mrs S says that MCB irresponsibly lent to her. Mrs S made a complaint to MCB.

MCB did not uphold Mrs S' complaint. They said Mrs S told them that she was earning £35,600 gross per annum which they verified with payslips, and they used Office for National Statistics (ONS) data for her general expenditure. MCB said they looked at Mrs S' credit file to assess her credit commitments, and they also applied a buffer. MCB said the outcome from the evaluation was that after all these expenditures, Mrs S would still have enough disposable income to make the monthly repayments for the loan. Mrs S brought her complaint to our service.

Our investigator upheld Mrs S' complaint. He said Mrs S appeared to owe around £17,275 in unsecured debts across her various active accounts, although it appeared that the vast majority of this was for a Hire Purchase agreement, which had around £13,408 outstanding. He said MCB had been unable to provide a breakdown of the ONS figures that were used to assess Mrs S' likely expenditure and ultimately, her disposable income to ensure the loan was affordable.

So our investigator said that further checks should have been made by MCB. He viewed Mrs S' bank statements and he said that Mrs S wouldn't have had sufficient disposable income to adapt to any changes in her regular outgoings, so the lending decision was unfair.

MCB asked for an ombudsman to review the complaint. They said their income verification and affordability assessments (including using estimate figures provided by ONS) are industry standard and approved by the regulator, and they had provided our service with the affordability components of their affordability assessment.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Before agreeing to approve the credit available to Mrs S, MCB needed to make proportionate checks to determine whether the credit was affordable and sustainable for her. There's no prescribed list of checks a lender should make. But the kind of things I expect lenders to consider include - but are not limited to: the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances. I've listed below what checks MCB have done and whether I'm persuaded these checks were proportionate.

I've looked at what checks MCB said they did when initially approving Mrs S' personal loan. MCB said they looked at information provided by credit reference agencies (CRA's) and information that Mrs S had provided before approving her application.

The information showed that Mrs S had declared a gross annual salary of £35,600, and she was living with parents. MCB had verified Mrs S' income via payslips she provided to them. Mrs S had a number of active agreements showing from the CRA's, and the total amount of unsecured debt being reported by the CRA was £17,275. With the £7,000 loan MCB approved, this would mean Mrs S would have borrowings of more than half of her gross annual salary.

I have noted that the purpose of the loan was for debt consolidation. So I would expect Mrs S to repay some of the existing debt with her MCB loan which could reduce her outgoings. But as the information from the CRA shows, the bulk of her lending was a Hire Purchase agreement which the CRA was reporting a balance of £13,408 outstanding. So Mrs S would be unable to settle the Hire Purchase agreement with the £7,000 MCB loan, and therefore it's probable the monthly repayment wouldn't reduce even if the outstanding balance reduced.

If Mrs S used the MCB loan to pay off her non-Hire Purchase debt, then this may have helped reduce her outgoings, but as the total balances on all of her other accounts as reported by the CRA was showing as £3,867, then it's probable the level of debt that Mrs S would have after paying these debts off would still rise if she didn't use the remaining amount to reduce her Hire Purchase agreement.

So Mrs S' debt after the loan would be around half of her gross salary, which was fairly high for someone living with their parents, who may not have mortgage and associated costs to pay. The data from the CRA also showed that in the year prior to the MCB loan being approved, Mrs S had been behind on her Hire Purchase agreement by three months at one point. Although I've noted Mrs S wasn't in arrears on any accounts at the point of lending.

MCB said they used ONS data to help calculate Mrs S' affordability. And I agree with them that this is industry standard. I've also reviewed what they sent to our service about how they calculate this figure, which I'm satisfied would be proportionate here.

But MCB have not been able to provide the figures that were used for costs, even though the document they sent us shows they use ONS data for expenditure costs which consist of the general cost of living, such as bills, transportation, groceries etc. While I wouldn't need to see a breakdown of these individual items, given the level of debt Mrs S had and would likely have after the MCB loan was approved, and her relatively recent payment history problems, I would expect MCB to be able to demonstrate the figures they used would show Mrs S would have enough disposable income to meet the loan payments in an affordable and sustainable way.

MCB have also told us they use a buffer of between £50-£200 to ensure there is a cushion with the affordability calculation. But again, they've been unable to demonstrate if this was applied to their calculation and at what level. MCB have said they use credit commitments to work out the affordability calculations and the affordability ratio. But from the data from the CRA, I've noted there are four accounts which have outstanding balances (£1,431, £739, £203 and £154), but are showing as "None" for the repayment amount. So it's not clear if MCB included any repayments for these accounts in their affordability assessment or ratio.

So I'm unable to conclude that MCB's checks were proportionate prior to approving the loan for Mrs S. So without these figures, which would appear MCB don't have access to (otherwise they would have been able to provide these to our service after our investigator

asked for these), then I would expect MCB to complete further checks to ensure the loan repayments would be affordable and sustainable for Mrs S.

There's no set way of how MCB should have made further proportionate checks. One of the things they could have done was to contact Mrs S to ensure the lending would be affordable and sustainable for her based on her recent payment history issues, the level of debt she had and to ensure they had taken into account all of her outgoings for her existing credit. Or they could have asked for her bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for her.

MCB have access to open banking for Mrs S, and they have carried out a retrospective check between 3 November 2023 to 31 January 2024. I've cross-referenced the open banking with a limited number of bank statements Mrs S has provided our service to ensure the accuracy of this data, and there are clear signs that Mrs S was having financial difficulties during this timeframe.

I say this because the open banking data shows that Mrs S had 72 debit transactions for Buy Now Pay Later companies. There is a small debit payment to a payday loan company. Mrs S had an overdraft of £400 on her bank account and she was overdrawn for the majority of the three months, often by most of her overdraft limit.

But the data from the open banking shows that Mrs S had exceeded her arranged overdraft limit on numerous occasions across the three month period prior to MCB approving the £7,000 loan. It also appears she was heavily reliant on her father to transfer money into her account.

So based on the information on the open banking, if MCB had completed further checks which would have been proportionate based on the individual circumstances set out above, I'm not persuaded that they would have approved the loan for Mrs S. So I can't conclude they made a fair lending decision in approving the £7,000 loan for Mrs S.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed at the end of this decision results in fair compensation for Mrs S in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Putting things right

Our investigator has suggested that MCB takes the actions detailed below, which I think is reasonable in the circumstances.

My final decision

I uphold this complaint. Brent Shrine Credit Union Limited trading as My Community Bank should take the following actions:

Rework the account removing all interest, fees, charges, and insurances (not already refunded) that have been applied;

If the rework results in a credit balance, this should be refunded to Mrs S along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. MCB should also remove all adverse information regarding this account from her credit file;

Or, if after the rework there is still an outstanding balance, MCB should arrange an affordable repayment plan with Mrs S for the remaining amount. Once Mrs S has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

*If MCB consider that they are required by HM Revenue & Customs to deduct income tax from that interest, they should tell Mrs S how much they've taken off. They should also give Mrs S a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 30 September 2024.

Gregory Sloanes
Ombudsman